

**MAYWOOD PLANNING BOARD
MINUTES
October 22, 2020**

A regular meeting of the Maywood Planning Board was held on Thursday, October 22, 2020 via the “Zoom” online meeting platform at 7:30pm. “This meeting was called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was published in the Our Town and The Record newspapers on or about November 21, 2019. In addition, copies of this notice were posted on the bulletin board in the Maywood Municipal Building at 15 Park Avenue, filed with the Borough Clerk and distributed to all persons, if any, requesting copies of the same pursuant to said act. On September 4, 2020, adequate notice of this meeting being conducted via the “Zoom” online meeting platform in lieu of its in-person meeting which was previously advertised in the Council Chambers of the Maywood Municipal Building was posted at the entrance to the Maywood Municipal Building, filed with the Borough Clerk, sent to the Mayor and Council, Borough Administrator, Borough Attorney and Board Attorney, forwarded to the Our Town and The Record newspapers for publication, posted on the Borough website and distributed to all persons, if any, requesting copies of the same pursuant to the Open Public Meetings Act. This meeting is being recorded both audio and video and may be rebroadcast. This meeting is a judicial proceeding, any questions or comments must be limited to the issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.”

Flag Salute

Call to Order

The meeting was called to order at 7:32pm with the following members present: Chairman Frank Lichtenberger, Vice Chairperson Charlotte Panny, Councilperson Ryan Ullman (left @ 7:44pm), Gary Neumann, Paul Kuhn, John Montel, Harry Hillenius, Rick DeHeer, Peter Cicarelli, Daniel Nemecek (technical difficulties caused him to leave @ 7:43pm) and John Gargagliano. Board Attorney Kara Kaczynski, Board Engineer Gregory Polyniak and Board Planner Michael Kauker were also present.

Approval of Minutes

Paul Kuhn made a motion to accept the minutes from the September 24, 2020 meeting. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion.

Rick DeHeer made a motion to accept the minutes from the October 1, 2020 meeting. Paul Kuhn seconded the motion. All eligible members present voted in favor of the motion.

Bills

John Gargagliano made a motion to accept payment of the bills. Gary Neumann seconded the motion. All eligible members present voted in favor of the motion.

Correspondence

- 9/24/20 memorandum from Board Planner Michael Kauker Re: SHDK, LLC 24-30 West Pleasant Avenue Planning Review

- 10/1/20 letter from Board Attorney Kara Kaczynski Re: Ultimate Force, LLC, et al. v. Zoning Board of Borough of Maywood, et al.
- 10/15/20 letter from Joseph R. Torre Re: Ultimate Force, LLC, et al. v. Zoning/Planning Board of Borough of Maywood, et als.
- 10/16/20 letter from Thomas K. Hynes Re: Zion Evangelical Lutheran Church Application Withdrawal

Resolution

Outfront Media

99 West Essex Street
Block 125, Lot 1

Calendar #2017-14

Variance & Site Plan Applications

Paul Kuhn made a motion to approve the resolution and Gary Neumann seconded the motion. All eligible members present voted in favor of the motion.

Due to technical difficulties, Daniel Nemecek left the meeting at 7:43pm.

Completeness Hearing

None

Application Hearing

Empire Real Estate Holdings, Inc.

191 West Central Avenue
Block 122, Lots 15 & 16.01

Calendar #2020-03

Variance & Site Plan Applications

Board Attorney Kara Kaczynski confirmed with Board Recording Secretary Grunstra that the applicant correctly provided hearing notice so the Board has jurisdiction. Councilperson Ryan Ullman recused himself from the hearing and left the meeting at 7:44pm.

Steven Schepis represents the applicant Empire Real Estate Holdings, Inc. and reminded the Board that the applicant was before the Board several years ago for a different tenant application. He proceeded to describe the application. The property consists of two lots with a small garage. In 2018, the Board approved the use for the applicant’s tenant, Metro Ambulance, LLC and permitted parking of up to 14 ambulances. He explained that the NJDEP permitted paving of Lot 15 but not of Lot 16.01. The applicant has reapplied to the NJDEP to pave Lot 16.01, added vegetation and has removed 2 parking spaces. As such, the new application is seeking 12 parking spaces total. The applicant is also proposing to add a small addition to the garage in order to help screen the uses. Mr. Schepis added that the property is zoned as Limited Light Industrial (LL) which permits manufacturing. The applicant’s tenant is an alloy wheel repair business. Silverstar Alloy Wheel Repair owns three (3) vehicles where two (2) are dispatched to offsite locations during the day while one (1) remains on-site. The garage is used for maintenance and repair. Customers can drop off wheels for repair. The Borough ordinance does not permit automobile repair in the LL zone. There are several existing nonconformities:

- Minimum Lot Area – 14,330 square feet existing vs. 30,000 required
- Minimum Lot Width – 60.8’ existing vs. 75’ required

- Minimum Side Yard Setback – 2’ existing vs. 15’ required
- Minimum Side Yard Setback – 29.9’ existing vs. 40’ required
- Off-street Parking Dimensions – 12’ x 17’ existing vs. 9’ x 18’ required

Mr. Schepis plans to call three witnesses: David Egarian, the applicant’s engineer; Jesse Roth, the owner of Silverstar Alloy Wheel Repair; and Lisa Phillips, the applicant’s planner. All three witnesses were sworn in.

David Egarian was qualified and accepted. He was the applicant’s engineer on the previous application. Board Attorney Kara Kaczynski marked the following exhibits:

- A-1 Application and supporting materials submitted with the application
- A-2 Side-by-side comparison of the approved site plan and proposed site plan
- A-3A Lot 15 parking photograph
- A-3B Lot 16.01 curb improvements photograph
- P-1 Board Engineer Polyniak’s 9/11/20 review letter
- A-4 Lisa Phillips’ 8/10/20 photograph array

Board Recording Secretary Grunstra displayed exhibit A-2 side-by-side comparison of the approved site plan (9/27/18) and proposed site plan. Mr. Egarian summarized the approved site plan:

- 6 parking spaces on Lot 15
- 8 parking spaces on Lot 16.01
- All parking spaces were shown at a 45° degree angle
- Parking space dimensions were designed to accommodate the ambulance sizes
- Turning radiuses were depicted on the site plan

The 9/27/18 site plan was approved subject to the NJDEP flood hazard permit approval. During the application process, the NJDEP discovered that both lots were cleared of vegetation. The vegetation clearing on Lot 15 was grandfathered but Lot 16.01 was identified as cleared without approval. As such, NJDEP instructed the applicant to remove Lot 16.01 from the flood hazard permit application leaving only Lot 15. The permit for Lot 15 was approved and the applicant paved Lot 15 and completed the other improvements identified as Phase 1 (paving, striping and installing the depressed curb). He explained that Lot 16.01 remained as gravel but curb stops were installed at a 45° degree angle to allow for parking on the gravel. NJDEP enforcement and land use regulation became involved. At this point, the NJDEP enforcement case is closed and the applicant has resubmitted the flood hazard permit application to the NJDEP land use regulatory department. Mr. Egarian then summarized the proposed site plan that was designed after negotiation with the NJDEP to restore the vegetation that was removed without a permit:

- Vegetation was added to the eastern side of Lot 16.01 and the southern side of Lot 15
- An enclosure similar to a carport was added to the north side of the garage
- Two parking spaces were removed from Lot 16.01 leaving 6 parking spaces
 - Lot 15 has 6 parking spaces so there are 12 parking spaces in total
- Lot 16.01 has been used by Silverstar Alloy Wheel Repair although it remains gravel

Mr. Schepis confirmed that the approved curbing along Hergesell Avenue has been installed. He then clarified that the vegetation removal on Lot 16.01 may have occurred as early as 2002 prior to the applicant purchasing the property. He confirmed that the parking stall size was the same as what was listed on the approved site plan. Mr. Egarian added that the curb line adjacent to the

brook has been moved to allow for the planting restoration. He described the proposed enclosure as a roofed structure enclosed by a chain link fence with privacy slats including a 10' wide gate. He believes that the new plan clearly defines the edge of pavement specifically the turning radius for space #6 at the northern most edge of the property. He then read the zoning table listed on the site plan dated 1/13/20 with an 8/14/20 revision date repeating the variances being sought. When asked by Mr. Schepis, Mr. Egarian confirmed that the proposed enclosure will not trigger additional variances. He then detailed the lot coverage calculation. The previous tenant had 22' long medical transport vehicles and the new application was based on 21.9' long super duty trucks but the new tenant has vehicles approximately 14'-16' long. The turning requirement would be less on the smaller vehicles. Asked by Mr. Egarian, Board Recording Secretary Grunstra displayed exhibit A-3A Lot 15 Parking. He explained that the picture depicts the actual trucks used by the tenant. Additionally, the picture shows the improvements made to Lot 15 such as curbing, paving and striping that were approved the Board and permitted by NJDEP. Mr. Egarian then requested exhibit A-3B Lot 16.01 Curb Improvements to be displayed. He discussed the proposed improvements of paving and striping as well as the proposed roofed enclosure. He noted that the depressed curb has already been installed per the original approval. He stated that the vehicles can enter and exit the property without going over the curb into the Hergesell Avenue roadway.

Citing exhibit P-1 Board Engineer Polyniak's 9/11/20 review letter, Mr. Egarian addressed the comments raised in the letter. Page 5 Item 2 asked for percent of lot for greenery and square feet of greenery. Mr. Egarian stated that the new green area on Lot 15 is 15.3% and on Lot 16.01 it is 10.2% as mandated by the NJDEP. Item 8 asked if trees have been removed and Mr. Egarian confirmed that no trees were removed. For the Environmental Impact Statement (EIS), the applicant proposes that 3,500 square feet of gravel be converted to 3,500 square feet of asphalt. As such, Board Engineer Polyniak noted in his review that this will increase off-site runoff and eliminate on-site infiltration requiring stormwater management mitigation. Mr. Egarian believes that the increase in stormwater is de minimis. He just sent an email to Board Engineer Polyniak proposing that the leaders from the garage roof be directed into the brook. Board Engineer Polyniak stated in his review that the proposed project will have deleterious effect on air quality. Mr. Egarian does not agree. Mr. Schepis requested that the proposed site plan be displayed. He confirmed that the roof leaders would be discharging into the brook that is located on the applicant's property. He noted that vegetation is proposed to be installed on the southern side of the brook opposite the garage location on Lot 15. Mr. Egarian agreed with Board Engineer Polyniak's review note that the riparian buffer restoration is mandated by NJDEP under the aquatic and terrestrial wildlife section. Board Engineer Polyniak's review mentioned that the proposed roof enclosure would increase solid waste but Mr. Egarian does not agree because the enclosure will only be used as a workspace and will not store materials. Mr. Schepis requested that the proposed architectural plans be displayed. Mr. Egarian directed Board Recording Secretary to display page A-6 of the architectural plans. He described the drawing of the proposed enclosure. He then said that the proposed roofed enclosure needed to remain open per NJDEP requirements as it is located in the riparian buffer. He requested that page A-3 of the architectural plans be displayed. He pointed out that the fence line is at a 45° degree angle. Returning back to the EIS section of Board Engineer Polyniak's review, Mr. Egarian believes that the aesthetics will be enhanced with the proposed project. Board Engineer Polyniak's review requested testimony regarding the NJDEP permit status. Mr. Egarian said that the

NJDEP permit application has been submitted and deemed complete. The NJDEP will take 90 days to review and he expects a determination in late November/early December 2020. He agreed to share any correspondence with the Board.

Referring to Board Engineer Polyniak's review engineering comments section, he deferred several comments to Silverstar Alloy Wheel Repair owner Jesse Roth and the applicant's planner, Lisa Phillips. Regarding consolidating the two existing lot into a single lot, Mr. Egarian answered that the two lots could be combined as they are owned by the same entity. Regarding the curb and sidewalk replacement, he stated that the depressed curbing was approved and has been installed and there is no existing sidewalk. Regarding the purpose of the proposed fenced enclosure, he explained that it is to provide a covered work area screening the work from the general public.

Mr. Egarian then moved on to Board Engineer Polyniak's review grading, drainage and utility comments. Board Engineer Polyniak again requested that a stormwater management system be installed. He also requested copies of all future correspondence with the NJDEP. Under the lighting and landscaping comments section, Board Engineer Polyniak requested a lighting plan. Mr. Egarian explained that Mr. Roth doesn't think additional lighting is necessary as work is not done at night. Under the traffic comments section, Board Engineer Polyniak requested Borough approval to utilize the right-of-way as a drive aisle. Mr. Egarian believes that this was already approved with the previous application. Board Engineer Polyniak also requested a vehicle circulation plan for how vehicles will access the proposed enclosure. Mr. Egarian stated that the enclosure fence would be installed at a 45° degree angle to allow easier access. Regarding the width and depth of the proposed parking spaces, he cited exhibit A-3A Lot 15 parking photograph in that the tenant's vehicles fit in the parking spaces. Lastly, under Board Engineer Polyniak's review general comments section, he again requested copies of all future correspondence with the NJDEP. Regarding resolution compliance review prior to issuance of construction permits and sufficient escrows being posted, Mr. Egarian agreed to this request. Regarding materials being sent to the Board Recording Secretary and not to the Board professionals directly, Mr. Egarian agreed to this request. Regarding revised materials to be submitted 10 days prior to the hearing, Mr. Egarian agreed to this request. Lastly, regarding Board Engineering review as additional information becomes available, Mr. Egarian agreed to this request.

Chairman Lichtenberger asked Board Engineer Polyniak if he had questions of Mr. Egarian. Board Engineer Polyniak stated that he had not received the email that Mr. Egarian testified about. He did not agree with the proposal to direct garage roof leaders into the brook. He insisted that stormwater management infrastructure is required. Board Engineer Polyniak requested copies of NJDEP flood hazard area permit application and the completeness letter with the anticipated date of the technical review completion. Mr. Egarian agreed to provide the requested documents. Board Engineer Polyniak requested that the properties be combined into one lot. Steven Schepis agreed to combine the two lots. Board Engineer Polyniak requested new curbing should it be damaged during construction and Mr. Schepis agreed to this condition. Regarding lighting, Board Engineer Polyniak believes that lighting improvements should be provided to ensure a secure and safe site. Mr. Schepis agreed to include a condition of approval that Board Engineer Polyniak and Mr. Egarian would work together to provide sufficient lighting

to address Board Engineer Polyniak's concerns. Board Engineer Polyniak believes that the Board does not have jurisdiction to permit the use of the right-of-way as a drive aisle. He asked the applicant to petition the governing body for approval. Mr. Schepis agreed to this condition. Board Engineer Polyniak requested a copy of the vehicle turning template that was testified to by Mr. Egarian. Mr. Egarian agreed to this condition. Board Engineer Polyniak believes that the effective depth of the parking spaces would require a variance. There was some discussion about how the depth was calculated. Board Attorney Kaczynski suggested including parking space dimensions as a variance to ensure that all applicable variances are being requested. Mr. Schepis asked Mr. Egarian a number of questions regarding the property characteristics and parking space dimensions as proofs for the variance. Mr. Egarian then asked Board Engineer Polyniak if a drywell would satisfy the stormwater requirement. He added that the NJDEP would also need to approve the drywell. Board Engineer Polyniak replied that he believes that the NJDEP would look favorably on a below grade stormwater structure. Mr. Egarian clarified that the stormwater infrastructure requirement would apply to Lot 16.01 only. Mr. Schepis asked Board Engineer Polyniak if he was satisfied that the parking spaces were safe. Board Engineer Polyniak replied that he has concerns regarding the traffic movements that are occurring on the subject property. There is a utility pole location that may interfere with vehicle turning access. Mr. Schepis suggested limiting the parking spaces nearest the utility pole to employee passenger vehicles only. Board Engineer Polyniak was satisfied with that condition.

Chairman Lichtenberger asked Board Planner Michael Kauker if he had questions of Mr. Egarian. Board Planner Kauker cited Borough code §209-39 C(2):

§209-39 Garages and off-street parking C(2). Access to areas; special temporary uses; enclosures; lighting. In all off-street parking areas, unobstructed access to and from the street shall be provided as follows:

(2) All areas designated as off-street parking areas shall be free of all other uses except special temporary uses allowed by police permit.

He believes that the applicant should be requesting a variance for this requirement. He suggested reducing the number of parking spaces on Lot 16.01 from 6 spaces to 3 spaces and switching the orientation from 45° degrees to parallel to Hergesell Avenue. He noted that Hergesell Avenue is a feeder to Route 17 with significant traffic. Mr. Schepis noted that there are 3 trucks related to the business but there are 5 employees at the location. As such, the business requires 8 parking spaces for staff. Additionally, the business needs parking spaces for customers. Mr. Schepis stated that 12 parking spaces are required for the business. Board Engineer Polyniak agreed with Board Planner Kauker's suggestion but understands the applicant's need for 12 parking spaces.

Chairman Lichtenberger asked the Board members if they had a questions for Mr. Egarian. Rick DeHeer asked about the lot coverage not changing but the applicant is proposing a fenced covered enclosure. Board Engineer Polyniak confirmed that the proposed enclosure would contribute to the lot coverage. He added that the maximum lot coverage permitted in the LL zone is 40% and the existing lot coverage is 5.7%. He does not believe the proposed enclosure would trigger a variance. Mr. Schepis promised to address the oversight on the revised site plan.

Chairman Lichtenberger then asked the public if they had questions for Mr. Egarian but no one came forward.

The applicant's next witness is Jesse Roth, proprietor of Silverstar Alloy Wheel Repair. He was sworn in earlier in the hearing. He began this business in 2011 while working full time for the Borough of Fair Lawn. He explained that the business is mainly mobile, dispatching trucks to service car dealerships and auto body shops. The wheel repair is done inside the truck. Besides himself, he has four other members on staff. The hours of operation are Monday-Friday 9am-5:30pm and closed on the weekend. He opened this location a year ago to have a centralized location. The work that is conducted at this location is considered "light". He removes damaged car wheels and utilizes his tire machine, wheel balancer or wheel straightener to repair it. If a customer's tire is damaged, Mr. Roth will replace it with a tire from a distributor. He continued to explain that more extensive work is done inside one of his trucks or off-site in an undisclosed location in Oakland, NJ. He said that he has a small number of customers for this location and the bulk of his business is through the mobile trucks. Mr. Schepis asked if there would be work done outside the building and Mr. Roth answered that all work would be conducted inside the existing building and the proposed enclosure. He confirmed that there would be no outdoor storage of any type. Citing Board Engineer Polyniak's concern about the mobile trucks parking near the utility pole, Mr. Schepis asked if Mr. Roth could comply with the condition that only employee passenger vehicles park in this location. Mr. Roth agreed to this condition. Regarding the NJDEP permit to pave Lot 16.01, Mr. Schepis confirmed that employees would park on the gravel while customers would park on the paved Lot 15. Mr. Roth agreed to this condition. Lastly, Mr. Schepis confirmed with Mr. Roth that the business is closed on Saturday and Sunday.

Chairman Lichtenberger noted that vehicles have been on jacks being worked on in the parking lot. Mr. Roth said that the proposed enclosure would prevent vehicles from being worked on in the parking lot. Board Attorney Kaczynski offered to include as a condition of approval that no outdoor work or storage can be done outside of the proposed enclosure. A violation would be issued if the tenant does not comply with the condition. Chairman Lichtenberger asked how long the process was to repair an alloy wheel. Mr. Roth answered that it could take 15 minutes to 24 hours. Chairman Lichtenberger questioned what percentage of work is done at this location vs. in the mobile trucks. Mr. Roth replied that 20% is done at the location and 80% is on the trucks. John Gargagliano asked what the size is of the largest truck and Mr. Roth answered 16'. Mr. Gargagliano confirmed that Mr. Roth does not plan to purchase larger trucks. Mr. Roth went on to explain that the box trucks will eventually be replaced with the Sprinter-type vans. Mr. Gargagliano has observed cars on jacks unattended in the parking lot. He asked if it was dangerous for the car to be suspended by 4 jack stands. Mr. Roth assured him that the practice was safe.

Chairman Lichtenberger invited the public to ask questions of Mr. Roth. Board Recording Secretary Grunstra stated that she had received emailed questions from Denise Fontanez of 126 West Central Avenue. She then read the questions into the record:

My questions are the wheel repair would be painting the wheels just like painting any vehicle. Auto paint is auto paint. Would a spray booth be required? What about the chemicals waste? Is Silverstar painting rims now? How many feet is required for a paint spray booth or painting rims from a private home? The building is right next to the stream and private homes, is there an EPA concern? If the Board approves this would that allow other places in Maywood to have an auto body repair facility if they approve this one?

Mr. Roth explained that there is no spaying in the building but there are down draft spray booths in the trucks. The chemical waste is disposed at the BCUA. He confirmed that his business paints rims. The spraying occurs in the trucks on dealer lots not near private homes. Mr. Roth then identified that the two box trucks shown in Exhibit A-3A have spray booths. He explained that there is a generator, compressor, down draft spray booth and paint gun used in each box truck. Mr. Schepis asked if odors would be emitted when spraying. Mr. Roth answered that the spray booths in the trucks have been on this site and there have been no complaints. Board Attorney Kaczynski stated that the alloy wheel repair business is limited to this application and location. Mr. Schepis added that this property is located in the Limited Light Industrial zone which permits manufacturing.

Chairman Lichtenberger asked if Fire Official Tom Tuttle or members of the Board had questions of Mr. Roth but no one came forward. He repeated his invitation to the public to ask questions of Mr. Roth but no one came forward.

Mr. Schepis asked Mr. Egarian if he was able to calculate the lot coverage. Mr. Egarian answered that the lot coverage with the proposed enclosure increases to 8.2% from 5.7% existing. He added that the maximum lot coverage permitted in the LL zone is 40%. Chairman Lichtenberger asked about the sign installed without approval on West Central Avenue. Mr. Schepis believed that the freestanding sign was approved in the previous application. Board Attorney suggested that limiting the sign size and location to what was previously approved or permitted by ordinance could be a condition of approval. Mr. Schepis agreed with this condition.

Chairman Lichtenberger asked if the public had additional questions of Mr. Egarian but no one came forward.

The applicant's next witness is Lisa Phillips, professional planner. She was sworn in earlier in the hearing. She was qualified and accepted. Ms. Phillips requested that Exhibit A-4 photo array be displayed. She explained that the photographs were taken by an intern on 8/10/20. She noted that the site has improved with the paving, curbing and lining of Lot 15. Board Attorney Kaczynski observed that the exhibit is 2 pages with 6 photos in total. The top two photos on page 1 are of the subject property from two different angles. The bottom two photos on page 1 are of the property on Hergesell Avenue opposite the subject property from two different angles showing tractor trailer parking. Page 2 has two photos of the south side of West Central Avenue opposite the subject property showing a residential property and the PSE&G substation. She noted that a nursing home is located northeast of the subject property but it is not depicted in the photographs. Additionally, there are residential properties on the other side of the brook. Ms. Phillips explained that the property is undersized and is impacted by the brook which limits the potential uses. She believes that typical LL zone uses such as manufacturing and warehousing could not be accommodated at this location. She considers the proposed improvements to be aesthetically pleasing. She believes that the daytime business hours would not be detrimental to the neighbors as the noise, fumes and lighting would not impact them. Should the property be developed for a permitted use such as manufacturing or distribution, the neighboring properties could be adversely affected. Ms. Phillips then listed the permitted and conditional uses. She considers the proposed use as less intense and less detrimental than the permitted uses. In terms of the special reasons, she explained that the site isn't developable for the intended zone uses due

to its size, shape and proximity to the brook. Compared to the prior approved medical transportation use, she considers the proposed use is less intense with fewer vehicles parking overnight. She added that the bulk of the business is done off-site. She reviewed both the 2009 and 2020 Borough master plan reexamination reports. She believes that the proposed use supports the master plan goals such as strengthening the tax base and encouraging economic growth. Given its unique characteristics, the property could sit fallow. She added that the Board can apply conditions to the approval thereby controlling the development. She reviewed the consideration to the character of the district and the particular suitability. Per the purposes of the Municipal Land Use Law, this project would affirm the purpose to promote desirable visual environment through creative development techniques and to provide sufficient space in appropriate locations. While the proposed use is not specially permitted, she feels that it meets the general intent of the LL zone. Lastly, she believes that this application meets the positive criteria for approval with no substantial detriment to the public good and no impairment to the master plan.

Chairman Lichtenberger invited the Board professionals and members to ask questions of Ms. Phillips and/or comment on the application but no one came forward. He then invited the public to ask questions of Ms. Phillips and/or comment on the application but no one came forward.

Mr. Schepis provided his closing statement emphasizing the property's unique size, shape and proximity to the brook. He included that the property has improved with the paving, curbing and striping. He explained that the applicant is seeking to improve it further. He continued that the applicant found a tenant that fits the property which was a challenge as the permitted uses don't fit the property. He believes that the building on the property has an automotive history. Mr. Schepis summarized that the improvements that are proposed are similar in nature to what has been already approved by the Board. He added that the only change is the roofed enclosure which benefits the public by keeping the work out of sight. The tenant agreed to the conditions of keeping the work enclosed and having cars with all four tires in the outside parking area. While working with the NJDEP can be challenging, he believes that Lot 16.01 will be paved. He asked that should the NJDEP not approve the permit, the Board permit parking on gravel of employee and business vehicles leaving the paved parking for customer use. He further explained that should the NJDEP not approve the permit, the applicant is prepared to install the wheel bumpers that the Board previously authorized for the previous application. Should the NJDEP approve the permit, the applicant will install the drywell to attenuate the additional stormwater runoff. He added that the Board previously approved a medical transportation use and he feels that this use will be less intense with smaller vehicles, fewer vehicles parked overnight and shorter business hours.

Chairman Lichtenberger requested that Board Attorney Kaczynski summarize the variances being sought and the conditions of approval. She reminded the Board that the applicant received approval for a medical transportation tenant several years ago and the applicant has returned with a new tenant that repairs wheels. She explained that there are several approved items from the prior application that remain the same for this application. However, the applicant is required to obtain a use variance pursuant to section D(1). The applicant is also seeking preliminary and final site plan approval. While all of the preexisting nonconforming conditions previously approved are not changing, but they also need to be approved by the Board. They are:

- Off-street Parking Dimensions – 12’ x 17’ existing vs. 9’ x 18’ required
 - Specifically the depth as identified by Board Engineer Polyniak however there was testimony and an exhibit that demonstrated that the parking spaces can accommodate the tenant’s trucks
- Board Planner Kauker cited §209-39 C(2) as the applicant needing permission to utilize the Borough right-of-way (ROW)

She then listed the conditions of approval:

- Conditions set forth in Board Engineer Polyniak’s 9/11/20 review letter except as noted during testimony or otherwise with regard to the conditions
- NJDEP flood hazard permit approval
- Applicant to provide all correspondence connected with the NJDEP application to the Board until a final determination is made
- The two tax lots (15 and 16.01) need to be combined
- Use of the right-of-way requires Borough approval
- Applicant will work with Board Engineer to provide any necessary lighting in response to Board Engineer Polyniak’s comment
- Applicant to provide vehicle turning template
- A stormwater management drywell will be installed on Lot 16.01 in conjunction with the comment of Board Engineer Polyniak
- Board to allow use of Lot 16.01 as gravel parking area for employee and business vehicles until the NJDEP determination with regard to the application
 - This would be a Board decision and in no way implies that the NJDEP would allow this type of use
 - Should the NJDEP not permit this use, the applicant is required to address the issue immediately
- The parking spaces on Lot 16.01 that are in proximity to the utility would be designated for employee passenger vehicles only
- The zoning table on the site plan will be amended to reflect the increase in lot coverage with proposed enclosure
- Applicant agreed that there will be no outdoor work or storage and all work will be done in the enclosure area
- Customers to utilize the paved parking spaces on Lot 15
 - Employees and business vehicles would be limited to Lot 16.01
- Applicant agreed that business trucks are no larger than 16’
 - New vehicles would be smaller than 16’
- Wheel paint spraying would be limited to inside the trucks
- Signage would be as previously approved or as otherwise permitted by ordinance
 - Signage not previously approved or permitted by ordinance would need Board approval
- Any other conditions of the prior approval that were not satisfied would need to be complied with

Board Attorney Kaczynski then reminded the Board that this business has been operating at this location for some time and has observed how the business operates. While the Board may have

concerns, the conditions are put in place to address those concerns. Mr. Schepis indicated that once Lot 16.01 is paved, the requirement that it be limited to employee and business vehicles be lifted. Board Attorney Kaczynski replied that the issue with the utility pole will remain. Mr. Schepis agreed that the parking space nearest the utility pole would remain as employee only.

Chairman Lichtenberger again opened the hearing to public comment but no one came forward. He again asked the Board professional and members for comment. Paul Kuhn reminded the applicant that the brook is not a ditch because it was mistakenly referred to as such during testimony. He believes that lighting is necessary as the business is open until 5:30pm and it is dark at that time during the winter months. He has observed cars on jacks in the parking lot and is happy that work must be done inside the enclosure as a condition of approval.

Mr. Kuhn then made a motion to grant the requested variances with the conditions as summarized by Board Attorney Kaczynski. Harry Hillenius seconded the motion. All eligible members present voted in favor of the motion except John Montel and Rick DeHeer who both voted against the motion. The motion carried.

Informal Hearing None

Closed Session None

Old Business None

New Business

- 2021 Meeting Schedule for Board Review
 - Board Attorney Kaczynski explained that she had a conflict on the 1st Thursday in May so that meeting was not included on the 2021 schedule
 - Chairman Frank Lichtenberger made a motion to approve the 2021 Meeting Schedule and Paul Kuhn seconded the motion
 - All eligible members present voted in favor of the motion

Open Meeting to the Public

Adjournment

A motion to adjourn the meeting was made by Harry Hillenius. John Gargagliano seconded the motion. All members present voted in favor of the motion. The meeting was adjourned at 9:47pm.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary